

# VIDEO INSTANTER

**Video Instanter Incorporated**

180 North LaSalle Street  
Suite 2424  
Chicago, Illinois 60601  
Phone 312-641-3605  
Fax 312-641-1147

August 22, 2008

Mr. John J. Lowrey  
1023 West 55th Street  
Suite 110  
LaGrange, IL 60525

cc: Lance Raphael  
Mark Belongia

**IN RE: FLORES v. DIAMOND BANK**  
**DEPOSITION OF LAWRENCE J. LIGAS Taken 08/12/08**

Dear Mr. Lowrey:

Please be advised that the deposition taken in the above cause of action is now ready for reading and signing at our office at the above address.

Please contact the undersigned to arrange for an appointment for the purpose of reading and executing the deposition transcript.

We appreciate your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "P. D. Gilleran", with a stylized flourish at the end.

Paul David Gilleran  
Video Instanter, Inc.

Deposition of **LAWRENCE J. LIGAS**, taken by the plaintiff herein, pursuant to notice and the provisions of the Federal Rules of Civil Procedure pertaining to the taking of depositions, before **PAUL DAVID GILLERAN**, a Notary Public within and for the County of Cook and State of Illinois, on the **12th day of August, 2008**, at the hour of 10:11 a.m., at 180 West Washington Street, Suite 700, Chicago, Illinois.

A P P E A R A N C E S

THE CONSUMER ADVOCACY CENTER  
180 West Washington Street  
Suite 700  
Chicago, Illinois 60602  
BY: MR. LANCE RAPHAEL

Appeared on behalf of the Plaintiff

BELONGIA & SHAPIRO, LLP  
53 West Jackson Blvd.  
Suite 315  
Chicago, Illinois 60604  
BY: MR. MARK D. BELONGIA

Appeared on behalf of the Defendant

JOHN L. LOWREY, TRIAL ATTORNEY  
1023 West 55th Street  
Suite 110  
LaGrange, Illinois 60525  
BY: MR. JOHN L. LOWREY

Appeared on behalf of the Witness

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1 THE REPORTER: For the record, my name  
2 is David Gilleran, of Video Instanter. I'm the  
3 video recording device operator and officer for  
4 this deposition. My business address is 180 North  
5 LaSalle Street, Suite 2424, Chicago, Illinois.  
6 This deposition is being video recorded, and it  
7 will be transcribed by nonstenographic means  
8 pursuant to Illinois Supreme Court Rule 206 and  
9 all other applicable State and Local Rules. We  
10 are at --

11 MR. RAPHAEL: Federal.

12 THE REPORTER: I apologize. This is  
13 being taken pursuant to Federal Rules of Civil  
14 Procedure and all other applicable State and Local  
15 Rules.

16 We are at 180 West Washington Street,  
17 Chicago, Illinois, to take the videotaped  
18 deposition of Lawrence J. Ligas, in the matter of  
19 Carmen Flores v. Diamond Bank, Case No. 07-C-6403,  
20 in the United States District Court for the  
21 Northern District of Illinois, Eastern Division.  
22 Today's date is August 12, 2008. The time is  
23 10:11 a.m. This deposition is being videotaped on  
24 behalf of the plaintiff. It is being taken at the

1 instance of the plaintiff. Sir, would you be kind  
2 enough to raise your right hand?

3 (WHEREUPON, the witness  
4 was duly sworn.)

5 E-X-A-M-I-N-A-T-I-O-N

6 BY MR. RAPHAEL:

7 Q. Alright. Do you go by Larry, Lawrence?  
8 How? How do you want to be addressed?

9 A. You can call me Larry.

10 Q. Okay. Larry, let me just run through  
11 the basics of a deposition. Basically, it's a  
12 question and answer session. Because we're in  
13 Federal Court, there's very limited things that  
14 anyone here can do, other than just question and  
15 answer, but occasionally those things will pop up.  
16 For example, your lawyer might say objection form  
17 or objection to foundation, which are the two  
18 recognized objections in a deposition and under  
19 the Federal Rules. So if he does that, pause, let  
20 him make his objection, and then answer the  
21 question unless he says to you don't answer the  
22 question. The only time he'll probably be doing  
23 that is -- is if he's objecting saying something  
24 like attorney-client privilege or some sort of

1 privilege that would entitle you not to answer the  
2 question. Otherwise, we're going to be looking  
3 for you to be candid, honest, tell the truth. You  
4 understand?

5 A. I understand.

6 Q. Okay. The next ground rule is that  
7 while I'm a lawyer, I'm a human being. I'm  
8 subject to making silly mistakes in the way that I  
9 question. I might say something that sounds just  
10 not real well thought forth, and so if you don't  
11 understand one of those just dumb mistaked  
12 questions, ask me. I'll rephrase it, I'll ask it  
13 a different way, or I'll go, gee, you're right  
14 that was a silly question and I'll drop it. So,  
15 otherwise, I'm going to expect that if you hear my  
16 question you're going to understand it and just  
17 answer it. Okay?

18 A. Okay.

19 Q. Alright. Let me think. Have you had  
20 your deposition taken before?

21 A. Yes.

22 Q. When?

23 A. I don't recall.

24 Q. What was it about?

1 A. I was a victim of a gunshot.

2 Q. Okay. You were the -- having your  
3 deposition taken in relation to a criminal case?

4 A. I don't recall if it was criminal.

5 Q. Were you suing someone?

6 A. Yes.

7 Q. Oh, okay. And it related to you being  
8 shot?

9 A. Yes.

10 Q. Okay. How long ago was that, how many  
11 years?

12 A. I don't recall.

13 Q. More than 10?

14 A. Yes.

15 Q. Okay. So then you -- That was the last  
16 time you've ever had your dep taken?

17 A. The best I recall.

18 Q. Okay. Alright. Well, then that gives  
19 me an idea that I have to go slow with you and  
20 make sure that you -- you're following along here  
21 since you haven't had your deposition taken  
22 recently. Alright. Let's -- Let me ask you just  
23 a quick question. Do you ever wear glasses?

24 A. No.



1 Q. Okay. And you're not taking any  
2 medication or sick or anything that would impair  
3 your ability to answer questions today?

4 A. No.

5 Q. Okay. Let me then provide you with a  
6 copy of the notice of subpoenaed video deposition  
7 which you were sent prior to today, or it was sent  
8 to your lawyer. Have you seen this before?

9 A. Yes.

10 Q. Okay. Have you looked through the  
11 categories of documents that are requested in the  
12 document rider attached to that?

13 MR. BELONGIA: For the record, are we  
14 marking these as an exhibit?

15 MR. RAPHAEL: Yeah, I will. I will.

16 MR. BELONGIA: Okay.

17 BY MR. RAPHAEL:

18 Q. It's the -- If you flip there, that  
19 page. Have you -- Had you had a chance to go  
20 through your documents in response to that?

21 A. Yes.

22 Q. Okay. And you produced documents in  
23 response to this document rider?

24 A. Yes.

1 Q. Okay. And let's, for the record, mark  
2 this as Exhibit A. The whole thing. Here, I'll  
3 take it back. Did you have any E-mails or  
4 correspondence with Diamond Bank relating to the  
5 installation of this ATM?

6 A. Yes.

7 Q. Alright. Did you produce those today?

8 A. Yes.

9 Q. E-mails.

10 A. Let me show you what your lawyers  
11 produced to me today and we'll mark it as Exhibit  
12 B. Do you need a copy?

13 MR. BELONGIA: Yeah.

14 MR. RAPHAEL: You want to look at the  
15 original or have him look at the original here?  
16 Why don't you pass the one that I gave you to your  
17 lawyer. Not that one. You'll look at Exhibit B  
18 and he'll look at the copy.

19 BY MR. RAPHAEL:

20 Q. Alright. This is the sum total of  
21 documents that was produced by your lawyer to me  
22 this morning right before your deposition. Are  
23 there any E-mails contained in Exhibit B?

24 A. This is the original proposal.

1 Q. I'm not asking you what this is. I'm  
2 asking you within Exhibit B have you any -- have  
3 you identified any E-mails in there?

4 A. E-mail. Oh, no.

5 Q. Okay. You had E-mail correspondence  
6 with Diamond Bank with regard to the installation  
7 of this ATM. Right?

8 A. Not that I'm aware of.

9 Q. Oh, okay. I thought that's what you --  
10 Maybe you misunderstood my question. I'm looking  
11 at the document production rider that we just  
12 referenced in your notice of subpoena deposition.  
13 It asks to produce any notes, E-mails,  
14 correspondence in your possession relating to the  
15 ATM that was installed at Diamond Bank at 100 West  
16 North Avenue.

17 A. And I --

18 Q. Were there any correspondence or E-mails  
19 between you and Diamond Bank regarding the  
20 installation of the ATM?

21 A. All the correspondence I'm aware of I  
22 brought.

23 Q. Okay. So this is it. There's nothing  
24 else relating to --

1 A. There was no E-mails that I'm aware of.

2 Q. Okay. Did you take any pictures or  
3 videos of the ATM?

4 A. No.

5 Q. And just as a ground rule, when I'm  
6 saying the ATM, you understand I mean the ATM  
7 located at Diamond Bank at 100 West North Avenue  
8 in Chicago. Right?

9 A. Yes, sir.

10 Q. Okay. I just don't want to have to say  
11 that every single time --

12 A. Yes.

13 Q. -- I ask the question. Okay. You  
14 didn't take any videos or photographs of the  
15 renovation process at all?

16 A. No.

17 Q. Okay. And what you produced to me as  
18 Exhibit B is all of the work orders and contracts  
19 between you and Diamond Bank?

20 A. Yes.

21 Q. There's no other work orders or  
22 contracts or billings or any invoices?

23 A. The ones that I have I brought.

24 Q. Well, where were these invoices and

1 bills kept, the ones that you brought?

2 A. These were off the computer.

3 Q. Okay. You have a computer at your  
4 office, I presume?

5 A. Correct.

6 Q. Okay. Is it a mainframe, a PC, what --

7 A. Just a PC.

8 Q. Okay. And you don't have any other  
9 invoices on that computer related to Diamond Bank?

10 A. That we -- we could print up, no. This  
11 is all that printed up.

12 Q. Well, do you have a file at your office  
13 on Diamond Bank?

14 A. Not that I'm aware of. Whatever was  
15 printed up, printed up.

16 Q. Here, let me ask you a different way.  
17 Alligas Enterprises, Inc., is your company.  
18 Right?

19 A. Yes.

20 Q. Okay. So you're the president?

21 A. Yes.

22 Q. How many people work there?

23 A. Just myself.

24 Q. Okay. That's what I figured. Are you

1 basically a general contractor?

2 A. I'd -- I'm basically an electrical  
3 contractor.

4 Q. Oh, okay. So you don't act as a general  
5 contractor?

6 A. In some cases I do.

7 Q. In Diamond Bank, did you --

8 A. I acted as a project manager.

9 Q. How is that different from a general  
10 contractor?

11 A. Basically, it takes more of a management  
12 versus just a general. It was more of a design  
13 build.

14 Q. Okay.

15 A. A project manager is basically to manage  
16 the entire project versus a general contractor  
17 which just supplies guys and doesn't really  
18 project manage.

19 Q. Okay. Alright. Now I understand. So  
20 I've always used the term general contractor to  
21 mean project manager, the guy who oversees all of  
22 the subcontractors, but you used the word project  
23 manager.

24 A. Yes.

1 Q. And is that a fair assessment that  
2 project manager is the person who oversees and  
3 maintains all of the subcontractors for a project?

4 A. Yes.

5 Q. Okay. And that's the other thing I  
6 forgot to mention. I'm going to ask really dumb  
7 sounding questions because I can't make  
8 assumptions as to what you and I both know, even  
9 though there's common frames of reference that  
10 would suggest that you know what I'm going to ask  
11 before I'm going to ask it. Be patient and wait  
12 until I finish the question before you answer it,  
13 even though you know what I'm going to ask. Okay?

14 A. Okay.

15 Q. Alright. So, anyhow, on this Diamond  
16 Bank project that you were working on, you were  
17 the project manager.

18 A. Yes.

19 Q. Okay. Is this the first time you acted  
20 as a project manager for a construction project?

21 A. No.

22 Q. Have you done it many times before?

23 A. Yes.

24 Q. Okay. And how long have you been in

1 the -- Well, first off, how long has Alligas been  
2 in business?

3 A. About 15 years.

4 Q. Okay. Is it safe to say you've been in  
5 business longer yourself personally?

6 A. A little bit longer.

7 Q. How long about?

8 A. Maybe a few years longer.

9 Q. Alright. And you've always been in the  
10 electrical business?

11 A. Yes.

12 Q. Okay. When was the first time roughly  
13 you have acted as a project manager in the  
14 construction business?

15 A. Probably about 15 years ago.

16 Q. Okay. And in this particular project,  
17 the Diamond Bank project, was it a project  
18 exclusive to the 100 West North Avenue address, or  
19 was there any other aspects of the project?

20 A. Just exclusive to the 100 West North  
21 Avenue.

22 Q. Okay. So then for the purposes of this  
23 deposition, I'm just going to call it the Diamond  
24 Bank project.



1 A. That's -- That's the way we phrased it.

2 Q. Okay. Good.

3 A. Diamond Bank slash North Federal.

4 Q. Oh, because it was North Federal before  
5 it was Diamond Bank?

6 A. Yes.

7 Q. Okay. Well, let's just call it the  
8 Diamond Bank project because I don't want to have  
9 a mouthful of words every time I ask a question.  
10 How many subcontractors did you have to use for  
11 the Diamond Bank project?

12 A. Really one.

13 Q. Who was that?

14 A. It was LaSalle Glass, and then we  
15 brought in individual subcontractors, independent  
16 contractors.

17 Q. By subcontractor, do you know what I  
18 mean by that? It's the people who do the actual  
19 work. You're contracting them out and billing out  
20 their services.

21 A. Right. So if you look at it, the  
22 companies, individuals, about five.

23 Q. Okay. So five companies or individuals?  
24 Yes?

1 A. Yes.

2 Q. Okay. Even though you're on camera, you  
3 got to answer out loud.

4 A. Yes.

5 Q. Okay. Did they invoice directly to  
6 Diamond Bank or did you invoice?

7 A. I invoiced.

8 Q. Okay. So they'd invoice you and then  
9 you would in turn --

10 A. Correct.

11 Q. -- mark it up or do whatever you would  
12 do and then invoice it to Diamond Bank. Correct?

13 A. Pretty much so.

14 Q. Okay. Where are those companies'  
15 invoices to you for this project?

16 A. I cannot locate them.

17 Q. Do you know the names of the companies  
18 or the individuals who would have invoiced you on  
19 this project?

20 A. Yes.

21 Q. Who would they be?

22 A. LaSalle Glass, and the other  
23 individuals, the personnel, I can't recall their  
24 names right now but I have them, the other

1 individuals. Matt -- I have Matt's name with me.

2 Q. Okay.

3 A. Could I reach in here?

4 Q. Sure. You can refresh your recollection  
5 using whatever you want.

6 A. I think -- He went as Matt, but his real  
7 name was M-A-T-V-I-E-K-A-S.

8 Q. Matt what? I'm sorry, M-A-T --

9 A. V-I-E-K-A-S.

10 Q. Matviekas.

11 A. And then his last name was M-I-N-D-A-N-  
12 G-A-S.

13 Q. And what was his job?

14 A. He was the lead carpenter, or that's  
15 what he called himself.

16 Q. Okay. And LaSalle Glass just did the  
17 glasswork on the outside of the building?

18 A. Yes.

19 Q. Okay. Who were the other three  
20 individuals or companies?

21 A. I can't recall their names right now.

22 Q. What is it you're looking at now to  
23 refresh your recollection?

24 A. This is the death certificate or

1 something that acknowledges when Matt died.

2 Q. Oh, I'm sorry. One of the  
3 subcontractors here died?

4 A. Yeah.

5 Q. When did that happen?

6 A. 4/19/06.

7 Q. Alright. How long had you been doing  
8 business with the other three companies before you  
9 hired them for this project?

10 A. About two years, a year.

11 Q. And this project started in '05?

12 A. Yes.

13 Q. Okay. You were out there until like,  
14 May of this year. Right?

15 A. No. Pretty much July, August of '06,  
16 and then we had some smaller projects that we were  
17 finishing up.

18 Q. Forgive me, but what I recall from  
19 talking to the bank was that you had been out  
20 there some time until May of this year?

21 A. You're talking about this contract?

22 Q. I'm talking about in general doing work  
23 on the --

24 A. Oh, doing the work we were -- Yeah, we

1 were still doing our small projects --

2 Q. Until how late?

3 A. -- until -- until like, maybe a month  
4 ago.

5 Q. Okay. I had made -- So until July. You  
6 were out there until July of '08?

7 A. Yes.

8 Q. Okay. So do you remember the last time  
9 you have been to the bank?

10 A. Two weeks ago.

11 Q. So in August.

12 A. Yeah. I stopped by.

13 Q. Okay. When you were there in August,  
14 did you happen to see the ATM at issue in this  
15 case?

16 A. No.

17 Q. Where were you when you stopped by?

18 A. I entered the basement. There's a side  
19 entrance off the parking lot.

20 Q. Okay. When was the last time you  
21 visited the bank where you actually went in the  
22 main entrance?

23 A. Well, I can't recall. It's a long time.

24 Q. You don't ever go into the main

1 entrance?

2 A. I would not say that I never, but very  
3 seldom. When we're working there, we use the side  
4 entrance.

5 Q. Okay. Even when you were working on  
6 things in the main lobby?

7 A. In the main lobby -- We'll work on the  
8 main lobby. We had a board up so the only we  
9 could enter it is through the bank, so we had to  
10 enter through the side door.

11 Q. Mm-hmm.

12 A. There was a wood structure.

13 Q. Alright. Well, is it fair to say that  
14 the last time you would've entered through the  
15 main entrance would've been some time in 2008,  
16 over the last, you know, I don't know, eight or  
17 nine months?

18 A. It may have been one time.

19 Q. Do you remember what that time was in  
20 2008 that you went through the main --

21 A. No.

22 Q. Let me finish the sentence. I'm sorry,  
23 do you remember what that one time was that you  
24 entered into the bank through the main entrance in

1 2008?

2 A. No.

3 Q. Do you remember anything about that  
4 visit through the main entrance of the bank in  
5 2008?

6 A. I do not.

7 Q. What -- What little projects have you  
8 been working on back in May or July of this year  
9 for the bank?

10 A. We had some electrical repair work.

11 Q. Did you send invoices for those?

12 A. No. I have not invoiced it.

13 Q. Well, is the work complete?

14 A. The work is complete.

15 Q. Do you typically invoice after work is  
16 complete?

17 A. These were small odds and end work. I  
18 don't nickel and dime clients.

19 Q. When was the last time you invoiced the  
20 bank for any work that was complete?

21 A. Probably May.

22 Q. Of 2008?

23 A. Yes.

24 Q. What was that invoice for, the amount?

1 A. I don't recall.

2 Q. Do you know what the invoice was  
3 regarding?

4 A. Some electrical repair.

5 Q. Typically, you don't invoice them until  
6 the work is complete, though. Right?

7 A. Yes.

8 Q. And typically you invoice about the same  
9 time the work is complete? You don't carry a  
10 balance with a client, do you?

11 A. It does happen.

12 Q. Is that typically how your business  
13 operates or is that the exception?

14 A. You know, each client is different.  
15 This one here, there was a balance that was being  
16 carried.

17 Q. For how long?

18 A. For some time.

19 Q. What's some time?

20 A. The best I recall, it's been several  
21 months.

22 Q. When you say several months, what does  
23 that mean, one month, two months, three months?

24 A. Probably four months.



1 Q. Four months. Any longer than four  
2 months?

3 A. Not that I recall.

4 Q. Okay. So you would invoice them and  
5 then they wouldn't pay until about four months  
6 later?

7 A. It depends on -- You know, I get  
8 together with Mr. Hubbard, sit down and go line  
9 item by line item what each item's for.

10 Q. So you would invoice him and he wouldn't  
11 pay until you had a chance to sit down and go  
12 through each of the invoices line item by line  
13 item?

14 A. That's pretty much -- You know, I  
15 wouldn't say -- but pretty much what each issue  
16 was.

17 Q. Okay. And would they pay promptly after  
18 that?

19 A. Pretty much.

20 Q. When you say pretty much, yes or no or  
21 sometimes yes, sometimes no?

22 A. Sometimes within 24 hours.

23 Q. Oh, okay. So you'd get payment within  
24 24 hours. What's the longest you'd wait for

1 payment after you'd gone through an invoice?

2 A. Maybe a week.

3 Q. Okay. And what's the longest you would  
4 wait to invoice someone after work was complete on  
5 a discrete project.

6 MR. BELONGIA: Objection. Are you  
7 referring to this project or a project? It's  
8 unclear from the question.

9 BY MR. RAPHAEL:

10 Q. With the bank. Let me strike that.

11 What's the longest you would wait with  
12 the bank, with Diamond Bank, to invoice them on  
13 discrete complete projects?

14 A. Sometimes 90 days.

15 Q. Okay. No longer than 90 days?

16 A. The best that I recall.

17 Q. And you invoiced Diamond Bank the last  
18 time in May of 2008 but you don't have a copy of  
19 an invoice?

20 A. No.

21 Q. How would the bank pay you?

22 A. Check.

23 Q. Okay. And where are the checks for  
24 payments on these -- on these invoices?

1 A. I need to deposit them in my checking  
2 account.

3 Q. You still have them in your possession?

4 A. I deposit it for deposit into my  
5 checking account.

6 Q. All the checks have been deposited from  
7 the bank?

8 A. Yes.

9 Q. And do you have your bank statement  
10 showing where they were deposited and when?

11 A. That still may be on the computer but  
12 most that I recall it's not on the computer.

13 Q. Well, do you get monthly statements?

14 A. We do get monthly statements.

15 Q. Where's your company bank?

16 A. Midwest Bank.

17 Q. And that's -- The account is kept under  
18 the name of Alligas Enterprises, Inc.?

19 A. Yes.

20 Q. Okay. These checks from the bank  
21 would've been deposited into that account, not  
22 into a personal account?

23 A. No, with Alligas Enterprises,  
24 Incorporated.

1 Q. And where is Midwest Bank's branch  
2 located that you bank at?

3 A. Pulaski and Fullerton. I mean Pulaski  
4 and Montrose.

5 Q. Pulaski and Montrose. And all of the  
6 payments on this Diamond Bank project were  
7 deposited into the Midwest Bank account for your  
8 company?

9 A. Yes.

10 Q. Okay. Did you issue checks to all the  
11 subcontractors on the Diamond Bank project from  
12 that bank account?

13 A. Yes.

14 Q. Okay. Where are the copies of the  
15 returned checks for the payments made to the  
16 subcontractors on this Diamond Bank project?

17 A. To the best of my knowledge, our bank  
18 doesn't send the returned checks, the can -- the  
19 cancelled checks.

20 Q. Don't they sent you in the monthly  
21 statement like, pictures of the cancelled checks?

22 A. To the best of my knowledge, no.

23 Q. So they keep the checks?

24 A. To the best of my knowledge, yes.

1 Q. So you don't have any documents with you  
2 that would identify the name, address, and  
3 telephone number of the people who you hired to do  
4 the Diamond Bank project?

5 A. I could not find those documents.

6 Q. Describe the other three persons or  
7 companies that you dealt with on this project as  
8 subcontractors?

9 A. Pretty much, to make it simple, you  
10 know, they were talented at patching, drywall,  
11 painting, and then carpentry, and then electrical.  
12 Multitalented, you know, craftsmen.

13 Q. And they may have had their own personal  
14 companies or you dealt with --

15 A. They -- They had -- -- They -- They  
16 worked as their own -- you know, had their own  
17 tools. You know, and set their own hours and it  
18 worked out fine for this project because we had to  
19 coordinate with the bank with hours. Some -- Some  
20 -- Sometimes they wanted us to work at nights,  
21 sometimes work in the evenings. We had to really  
22 -- you know, Mr. Hubbard's thing was safety number  
23 one, and we had to, you know, coordinate with the  
24 schedule of the banks and, you know, moving, you

1 know, at certain times.

2 Q. Yeah.

3 A. So working with the subcontractors and  
4 working -- they had, you know, flexible schedules  
5 and it worked out fine between me, the bank, and  
6 the subcontractors.

7 Q. Yeah. Which one of these three  
8 people -- or actually which one of -- which one of  
9 any of the subcontractors you used did the  
10 installation of the ATM surround?

11 A. The carpenter.

12 Q. Which one?

13 A. Matt.

14 Q. You mean the dead one?

15 A. Yes.

16 Q. Okay. And you say he passed away, what  
17 -- when?

18 A. Like four -- 4/19/06.

19 Q. Can I have that death certificate there  
20 since you're referencing it?

21 A. It's just a tax --

22 Q. Why don't we mark this as Exhibit --  
23 What are we, three or C? C. Who's Lisa Ligas?

24 A. Lisa Ligas is my wife.

1 Q. Okay. It says attorney there. Why is  
2 there a designation of her as an attorney?

3 A. She is a licensed attorney.

4 Q. Oh, she is. Okay. Where does she  
5 practice?

6 A. She is with Morgan Stanley.

7 Q. What's she do?

8 A. She's with private wealth.

9 Q. So she's not a practicing litigator or  
10 anything.

11 A. She was a practice litigator when this  
12 document was signed.

13 Q. Where was she at then?

14 A. She had her own law practice. Federal  
15 litigation.

16 Q. Where was she located. What was her  
17 office address?

18 A. She officed out of our home at 2424  
19 North Kedzie.

20 Q. Have you talked to her about this case?

21 MR. LOWREY: Objection to the husband-  
22 wife privilege.

23 BY MR. RAPHAEL:

24 Q. I haven't asked you what you've said.

1 Have you talked to her about this case?

2 MR. LOWREY: You can answer yes or no,  
3 but don't say anything about what you talked  
4 about. It's covered by the husband-wife  
5 privilege.

6 THE WITNESS: Yes.

7 BY MR. RAPHAEL:

8 Q. Okay. When did you first speak to her  
9 about this case? I'm not asking you what you've  
10 said.

11 A. Yesterday.

12 Q. That was the first time you spoke to her  
13 about this case?

14 A. Yes.

15 Q. Can I have that Exhibit C back, please?  
16 Yeah. I -- I have a hard time pronouncing this  
17 guy's name, so M-I-N-D-A-N-G-A-S M-A-T-V-I-E-K-A-  
18 S, we'll refer to him as Matt?

19 A. That's what I referred to him as.

20 Q. Alright. Was Matt the only person who  
21 worked on the installation of the ATM at the  
22 Diamond Bank project?

23 A. On the ATM -- Could you be more  
24 specific?



1 Q. Well, what do you mean?

2 A. I mean you're asking a question -- When  
3 you said goofy, I'm supposed to ask you if it  
4 sounds goofy.

5 Q. Sure. Sure. Right. What -- What --  
6 What part of it is goofy? What part don't you  
7 understand?

8 A. The question.

9 Q. Okay. Was the Matt the only one who  
10 worked on the ATM aspect of the project?

11 A. For me?

12 Q. Mm-hmm.

13 A. For Alligas, yes.

14 Q. Was there anyone else that you know of  
15 that might've worked on the ATM project?

16 A. There were some movers that bought --  
17 brought the machine to the site.

18 Q. Anyone else?

19 A. LaSalle glass put up the stainless steel  
20 structure, but pertaining to the ATM, Matt would  
21 be the tradesman.

22 Q. Okay. No one else worked -- who worked  
23 for you would've put up the ATM surround?

24 A. Would've put up -- No, definitely not.

1 Q. Okay. And --

2 (WHEREUPON, a short  
3 recess was taken.)

4 THE REPORTER: Back on the record.

5 BY MR. RAPHAEL:

6 Q. Okay. Did you do any of the work on the  
7 ATM project at Diamond Bank yourself?

8 A. Yes.

9 Q. Okay. So you personally worked on the  
10 construction of the surround?

11 A. Yes.

12 Q. Okay. Were you present all the time  
13 when Matt was doing work on the ATM?

14 A. Yes.

15 Q. Alright. So you worked as a team.  
16 Right?

17 A. Yes.

18 Q. Okay. And just for clarity's sake, on  
19 the record, when I say the ATM, you know I mean  
20 the ATM machine number 049E4 located at Diamond  
21 Bank at 100 West North Avenue in Chicago that's  
22 referenced in all the documents. Right?

23 A. Well, I'm not going to assume anything,  
24 but I don't know whatever number you just called

1 it, I don't know it as that number.

2 Q. Okay. But if I said to you that that  
3 number corresponds to the ATM at Diamond Bank 100  
4 West North -- Here, I've got an easier -- I've got  
5 an easier way of doing this.

6 A. Do I answer that question?

7 Q. No. Don't.

8 A. Okay.

9 Q. What are we on, D?

10 A. Let me show you what I'll mark as  
11 Exhibit D.

12 Q. See that picture in Exhibit D?

13 A. Yes, I see the picture.

14 Q. You recognize the location of that  
15 picture?

16 A. Yes, I recognize the location. Yes.

17 Q. Yeah, it's the place you worked for over  
18 two years renovating. Right?

19 A. Yes. Yes.

20 Q. Okay. So that's the -- the Diamond Bank  
21 location at 100 West North Avenue. Right?

22 A. That is 100 West North Avenue. Diamond  
23 Bank location.

24 Q. Okay. Alright. And you recognize where

1 the ATM surround is there in the picture?

2 A. I cannot -- I cannot see the ATM  
3 surround.

4 Q. Look in the lower -- Look -- Look --  
5 Yeah, here you go. You're pointing at it.

6 A. It's somewhere. Yeah, it's that smear.  
7 Yes.

8 Q. Yeah. Do you recognize that as where  
9 the ATM is?

10 A. I do not recognize that as the ATM but I  
11 recognize it as the location of it.

12 Q. Well, do you need a -- do you need a  
13 bigger copy?

14 A. I mean if -- I mean if you're going to  
15 ask me a question about it, I will need a bigger  
16 copy --

17 Q. Alright. Here.

18 A. -- but I cannot -- I cannot recognize  
19 that as the ATM, but that --

20 Q. Here, we'll mark this --

21 A. -- but that is the location.

22 Q. Alright. We'll mark a exhibit. What  
23 are we at now? What?

24 THE REPORTER: E.

1 BY MR. RAPHAEL:

2 Q. Okay. We'll mark as Exhibit E a blowup.  
3 Do you recognize this picture as being the same  
4 picture, just blown up?

5 A. This picture is much clearer.

6 Q. Do you recognize Exhibit E as being a  
7 blowup of Exhibit D?

8 A. Yes.

9 Q. Okay. And do you recognize that  
10 location in Exhibit E?

11 A. That is 100 West North Avenue.

12 Q. Alright. And the ATM in there is the  
13 ATM that you renovated. Right?

14 A. That ATM --

15 Q. The surround.

16 A. -- surround.

17 Q. Yeah. When I'm talking about the ATM or  
18 the ATM surround or -- I'm referring to your --  
19 your portion of the contract. I know you didn't  
20 put in the physical machine itself. Right?

21 A. Okay. Well, you didn't clarify that.

22 Q. Why don't -- Why don't we clarify it for  
23 the record. You installed the ATM surround and  
24 everything else at 100 West North Avenue except

1 for the machine itself. Right?

2 MR. BELONGIA: Objection to the term  
3 everything else. I don't --

4 BY MR. RAPHAEL:

5 Q. The signage, the surround, the whole  
6 nine yards.

7 A. I did not -- The signage, you're getting  
8 too wild.

9 Q. Then you tell me what you installed.

10 A. The surround around the ATM. Signage,  
11 that was done by a bank contractor.

12 Q. Okay. And the machine itself you didn't  
13 install.

14 A. The machine itself I did not install.

15 Q. Okay. When you say the signage was  
16 installed by a bank contractor, who was that?

17 A. I don't recall.

18 Q. Okay. So some bank contractor  
19 install -

20 A. A sign contractor.

21 Q. A sign contractor. Bank sign  
22 contractor.

23 A. You're talking --

24 MR. LOWREY: Please.

1 THE WITNESS: Okay.

2 BY MR. RAPHAEL:

3 Q. What are you referring to in terms of  
4 the bank sign contractor?

5 A. You asked a question. So I'm assuming  
6 where it says Diamond Bank, Diamond Bank, but I  
7 don't want to assume anything.

8 Q. Alright. Who installed the --

9 A. That was your question. Right, with the  
10 signage? This picture I'm looking at.

11 Q. Exhibit E.

12 A. Exhibit E, you asked about signage.

13 Q. Yeah, for the ATM.

14 A. For the ATM.

15 Q. You installed the signage?

16 A. No, that was part of the surround. I  
17 didn't install it. It came as part of the  
18 surround.

19 Q. When was the last time you saw this ATM  
20 pictured in Exhibit E?

21 A. When I actually viewed and saw the ATM?

22 Q. Yeah.

23 A. In this picture, at least, it's probably  
24 -- Could you clarify when I saw it?

1 Q. When was the last time you saw the ATM  
2 located at --

3 A. Well, saw -- I had to take view of it.

4 Q. Shhh. Wait, wait, wait, wait, wait,  
5 wait. You can't talk over me. You got to let me  
6 finish the question. Just take a pause. I know  
7 you know you think you know where I'm going but  
8 let me ask the full question. When was the last  
9 time you saw the ATM located at 100 West North  
10 Avenue at Diamond Bank?

11 A. I don't recall.

12 Q. Well, what -- what was the last time you  
13 do recall seeing it?

14 MR. BELONGIA: Asked and answered.

15 THE WITNESS: I've been looking at this  
16 picture --

17 BY MR. RAPHAEL:

18 Q. I'm not looking -- I'm not asking you  
19 when was the last time you saw a picture of it.  
20 I'm asking you when was the last time you saw  
21 physically, in person, the ATM located at 100 West  
22 North Avenue at Diamond Bank?

23 MR. BELONGIA: Asked and answered.

24 THE WITNESS: I don't recall.



1 BY MR. RAPHAEL:

2 Q. Do you recall ever seeing the ATM  
3 located at 100 West North Avenue?

4 A. Yes.

5 Q. When was that?

6 A. Probably the last time we actually set  
7 it in place.

8 Q. And when was that?

9 A. Probably approximately the last time we  
10 set in place was June of 2006.

11 Q. Okay.

12 A. Approximately June, you know.

13 Q. That was the last time you set it in  
14 place?

15 A. Right. We had to sort of juggle and  
16 give it a little bit of a twist.

17 Q. What do you mean?

18 A. We -- For the -- For the LaSalle Glass  
19 people to finish, we had to maneuver the surround  
20 and ATM out for him to put back his stainless  
21 steel backing, and then we had to just move the  
22 machine back up a little bit.

23 Q. Okay. Was the machine working prior to  
24 you doing that last adjustment?

1 A. Yes.

2 Q. Okay. So it had been operational before  
3 that last adjustment?

4 A. Yes.

5 Q. How do you know?

6 A. Because I was the one that project  
7 managed the original -- the surround we put on.

8 Q. Okay. Did you hire a photographer to  
9 take pictures of the finished renovation?

10 A. No.

11 Q. Were you around when that photographer  
12 took pictures of the renovation?

13 A. Yes.

14 Q. Okay. Do you remember the  
15 photographer's name?

16 A. I don't recall.

17 Q. If I said Barry Rustin, would that  
18 refresh your recollection?

19 A. It sounds familiar.

20 Q. So you were there when he took pictures  
21 of the ATM?

22 A. I don't recall if he took pictures of  
23 the ATM, but I recall him taking this picture.

24 Q. And you're referring to Exhibit E.

1 A. Yes.

2 Q. Okay. So you -- you were present when  
3 Exhibit E was taken?

4 A. Yes.

5 Q. Okay. Who else was present?

6 A. A few people from the bank.

7 Q. Was the president there?

8 A. Jim Hubbard?

9 Q. Yeah.

10 A. Yes.

11 Q. He also had his own picture taken at the  
12 same time or around the same time?

13 A. I don't -- I don't recall, but he was  
14 there to take a picture.

15 Q. Okay.

16 A. I don't know if they actually took the  
17 actual --

18 A. Picture of him.

19 Q. It was planned for him to take a  
20 picture.

21 A. I don't know that they did, but the plan  
22 was for him to take a picture.

23 Q. Okay. But he was there when they took  
24 this picture here, Exhibit E?

1 A. Yes.

2 Q. Okay. And you were there and the  
3 photographer was there and who else was there?

4 A. The photographer had -- He may have had  
5 like, an assistant to go around and, you know,  
6 keep the -- keep everything tidy and clean up and,  
7 you know, make sure everything is shiny.

8 Q. Why were you there? Were you for the  
9 same reason to make sure that everything was in  
10 its place before the picture was taken?

11 A. Basically to control lighting. He was  
12 very particular on which lights he wanted on and  
13 which ones he didn't.

14 Q. In the building.

15 A. Correct.

16 Q. Okay. When you were there, was  
17 everything at that point complete as of the time  
18 of this taking -- as of the time of taking this  
19 picture?

20 MR. BELONGIA: Objection to the term  
21 everything.

22 BY MR. RAPHAEL:

23 Q. Here, let me rephrase that. I'm going  
24 to ask you a different question. At the time this

1 picture was taken, you had completed the  
2 renovation process for the ATM and the ATM  
3 surround?

4 A. Yes.

5 Q. Okay. And the machine had been  
6 installed at that point in time?

7 A. Yes.

8 Q. Okay. And do you know if the machine  
9 was working on that day?

10 A. The best I recall, I remember customers  
11 walking up to the machine. So best of my  
12 knowledge, it was working.

13 Q. Okay. Off the record, please.

14 THE REPORTER: Going off the record.

15 (WHEREUPON, a short  
16 recess was taken.)

17 THE REPORTER: Back on the record.

18 BY MR. RAPHAEL:

19 Q. Okay. So you were present, the  
20 president was present, and the photographer was  
21 present on the day of that photograph in Exhibit  
22 E. I think I asked you if you had hired the  
23 photographer. Maybe I wasn't being clear.  
24 Obviously, the bank hired them, but didn't --

1 didn't the photographer get hired through you  
2 acting for the bank?

3 A. You know, you have to describe the word  
4 hired.

5 Q. I'm not trying to be cute or trap you.  
6 I'm just saying you were the one --

7 A. I was -- I was the project manager, and  
8 they wanted me for my skills to coordinate for  
9 everyone's safety because there -- It's a  
10 questionable corner, you know -- People -- Very --  
11 There's a lot of homeless around there. There's a  
12 lot of little vandalism, and --

13 Q. Where do you live?

14 A. Where do I live?

15 Q. Do you live near this place? I mean,  
16 isn't this across from the Latin School?

17 A. It's also next door to a homeless  
18 shelter.

19 Q. But isn't it across from the Latin  
20 School?

21 A. It's kitty corner from the Latin School.  
22 Yes.

23 Q. Yeah. And the Chicago Cultural Museum?

24 A. Across the street. Yes. And next to

1 the homeless shelter.

2 Q. Okay. And my question, before you  
3 started volunteering your knowledge of the area,  
4 was really a question of did you hire the guy, the  
5 photographer, not that you're paying him or you're  
6 agreeing to -- to hire him --

7 A. Okay.

8 Q. -- but that you were the guy who  
9 contacted him to take the picture. Right?

10 A. Yes.

11 Q. Okay.

12 A. Thanks for clarifying.

13 Q. Alright. So -- So when you took -- When  
14 you contacted Barry Rustin to take the picture, he  
15 went there to meet with you. Right?

16 A. Me, and there were a couple of people  
17 from the bank as well.

18 Q. Right.

19 A. Yes.

20 Q. But he also met with you.

21 A. Yes, for sure.

22 Q. You were his primary contact person.  
23 Right?

24 A. For sure.

1 Q. Okay. Was there a woman from the bank  
2 there called Mina?

3 A. Not that I recall.

4 Q. Do you remember a woman named Mina at  
5 the bank?

6 A. I don't recall a woman named Mina, but  
7 as I stated, there were a few people from the bank  
8 there.

9 Q. Okay. Why had you contacted Barry  
10 Rustin, the photographer, to take the picture at  
11 the time?

12 A. Somehow his -- he came as a reference  
13 that he was a good architectural photographer.

14 Q. Mm-hmm.

15 A. Either he stopped by. There was somehow  
16 he came as a good recommendation for architectural  
17 photographer.

18 Q. Did he invoice through you or did he  
19 invoice the bank direct?

20 A. He invoiced the bank direct.

21 Q. Okay. Did you get his pictures for the  
22 bank, or did he send his pictures directly to the  
23 bank?

24 A. I never saw the pictures.



1 Q. Until afterwards. Until after they had  
2 been taken.

3 A. I don't think I've ever seen his  
4 pictures.

5 Q. Even those. I mean you recognize that  
6 picture --

7 A. Yes.

8 Q. -- as being his picture. Right?

9 MR. BELONGIA: Objection. Foundation.

10 BY MR. RAPHAEL:

11 Q. You remember being present when that --

12 A. For this type of -- I remember -- You  
13 led me to believe that you said this was his  
14 picture, and I -- I don't disagree with your --

15 Q. Right.

16 A. -- credibility.

17 Q. Okay.

18 A. You know, so, yes, I guess it is his  
19 picture.

20 Q. You didn't hire any other  
21 photographers -

22 A. No.

23 Q. -- take pictures for the bank.

24 A. I did not.

1 Q. And by the word hire, I mean you didn't  
2 contact --

3 A. Correct.

4 Q. -- anyone --

5 A. No. I did not.

6 Q. Okay. At the time you were present for  
7 Exhibit E being taken, had you inspected the  
8 exterior of the bank to make sure that all the  
9 renovation processes had been completed?

10 A. I did that prior --

11 Q. How much prior?

12 A. A few months.

13 Q. Okay. But before this architectural  
14 photographer was going to be taking the picture of  
15 the bank --

16 A. Yes.

17 Q. -- did you do a last minute inspection  
18 of the premises to make sure that everything was  
19 in order?

20 A. No.

21 Q. So you didn't do any inspection of the  
22 premises before the architectural photographer was  
23 going to take this picture that day.

24 A. There was also security from the bank

1 was also on site.

2 Q. Did the security guards take part in the  
3 renovation process?

4 A. No, but you asked about to inspect or  
5 check for -- Your wording was like check for --  
6 inspect the day of the -- There was -- There was  
7 security.

8 Q. You're a builder. Yeah. You're a  
9 builder. Right?

10 A. Yes.

11 Q. When I say inspect, I mean inspect as a  
12 builder would inspect. I don't mean as inspect in  
13 terms of security.

14 A. Okay. Security.

15 Q. I mean -- Let me finish. I mean that  
16 did you inspect the premises to make sure all of  
17 your renovation that you had been working on  
18 previously was nice and finished and complete  
19 before this picture was going to be taken?

20 A. Primarily like the lighting, make sure  
21 all the lighting on the signage was on. That was  
22 primarily -- make sure the lamps were burning.  
23 That's all that, you know, I was there for.

24 Q. Okay. Does that include the lamps that

1 were above the ATM there?

2 A. Yes.

3 Q. Okay. So you looked at the ATM to make  
4 sure it was operating properly.

5 MR. BELONGIA: Objection.

6 THE WITNESS: No.

7 BY MR. RAPHAEL:

8 Q. Did you look at the ATM on that day to  
9 make sure that lamps on the ATM were burning and  
10 operating properly?

11 A. Yes.

12 Q. Okay. And you walked over to the ATM to  
13 do that?

14 A. Yes.

15 Q. Okay. And you looked at the ATM?

16 A. I looked at the light on the ATM  
17 surround.

18 Q. Okay. Did you close your eyes as to  
19 everything else, though?

20 A. I may have been oblivious to everything  
21 else because it had nothing to do with me.

22 Q. Okay. What -- What aspects of the ATM  
23 were you responsible for, in terms of the  
24 assignment given you from the bank?

1 A. My responsibility was to -- When the  
2 surround arrived -- When the surround arrived, to  
3 coordinate the installation of the -- the  
4 installation, the cut in -- the precise cuts of  
5 the fiberglass housing.

6 Q. Okay. Let's go back to Exhibit -- I  
7 guess it is B, which is your invoices and  
8 proposal. Do you see that? Was it Exhibit B?

9 A. Yes.

10 Q. Your proposal, which is the first three  
11 pages of Exhibit B --

12 A. Yes.

13 Q. -- does that include anything related to  
14 the ATM or the ATM surround?

15 A. Yes.

16 Q. What?

17 A. It was moving it from the inside  
18 location to where the location of this picture  
19 shows now.

20 Q. Where is that shown in here?

21 A. On picture --

22 Q. Where in your proposal does it show  
23 anything related to the moving of the ATM?

24 A. It says repaired by Torchia dated

1 2/15/05. Interior renovation only, and they  
2 showed in the interior renovation the ATM staying  
3 in the interior of the lobby.

4 Q. Is this proposal your base contract?

5 A. Yes.

6 Q. Okay. Well, I'm confused. Why don't  
7 you look at invoice 06284. See that invoice  
8 attached to --

9 A. Yes.

10 Q. -- to Exhibit B?

11 A. Yes.

12 Q. You see how it says not included in  
13 scope of base contract?

14 A. Yes.

15 Q. All these things here. All these extra  
16 invoices where it says upgraded or not included in  
17 the scope of the base contract --

18 A. Right.

19 Q. -- are those statements false?

20 A. There's nothing false.

21 Q. Okay. So those are correct statements  
22 that none of this work described in these invoices  
23 was included in this base proposal. Correct?

24 A. Correct.

1 Q. Okay. So maybe I was confusing you.  
2 The proposal here, I've read it. I don't see  
3 anything about moving the ATM in your proposal,  
4 and these invoices seem to reflect that this was  
5 an add on job. Is that not accurate?

6 A. Let me -- Let me be accurate.

7 Q. On the first paragraph, perform the  
8 following per architectural plans and  
9 specification prepared by Torchia Architect 2/15.  
10 Interior renovation only. Per that document that  
11 I was served, it asked for drawings. I brought  
12 them, and the drawings that say interior  
13 renovation, the ATM was to be installed in the  
14 interior of the lobby.

15 THE REPORTER: This is the end of tape  
16 one. The time is 11:17 a.m. The running time of  
17 the tape is 1 hour, 1 minute, and 15 seconds.  
18 This is the start of tape number two. The time is  
19 11:24 a.m.

20 BY MR. RAPHAEL:

21 Q. Alright. Well the original  
22 architectural plans by Torchia didn't involve  
23 moving the ATM to the outside, did it?

24 A. That's correct.

1 Q. Okay. So when I say the ATM project, I  
2 mean the movement of the ATM from the inside of  
3 the bank to its present location outside of the  
4 bank. Okay?

5 A. Yes.

6 Q. Alright. So this original proposal did  
7 not include anything regarding that, did it?

8 A. That's true.

9 Q. Okay. So all these invoices that are  
10 attached as Exhibit B were extras that were  
11 contemplated after --

12 A. After the -- They were not shown on the  
13 2/15/05.

14 Q. Were there proposals that had been  
15 initiated for these invoices or were these all  
16 done orally?

17 A. Orally.

18 Q. When -- When had it been decided to move  
19 the ATM to the outside?

20 A. Mr. Hubbard had the idea fall of 2005.

21 Q. Okay. When was the work initiate -- I  
22 mean, here -- Strike that. Let me ask you a  
23 different way.

24 You invoiced him in December. Right?



1 A. For the --

2 Q. Relocation.

3 A. Well, I invoiced them for the extra  
4 work.

5 Q. For relocating the machine.

6 A. Right. That was after the entire  
7 project was finished.

8 Q. Right. Is there something I'm missing?  
9 You invoiced them in December for the extra work  
10 for relocating the machine. Right?

11 A. Yes.

12 Q. Okay.

13 A. Relocating the machine. The invoice in  
14 December. Yes.

15 Q.. Okay. So how long did it take to  
16 relocate the machine, two, three weeks, a month?  
17 What?

18 A. Could you be more specific? Relocating  
19 the machine which time?

20 Q. Well, did you do it more than once?

21 A. Yes.

22 Q. How many times did you relocate the  
23 machine?

24 A. Twice.

1 Q. And where did you relocate it to the  
2 first time?

3 A. From the inside to the outside.

4 Q. Okay. And what was the second  
5 relocation of it?

6 A. From the -- From one location that was  
7 off to make room for the stainless steel.

8 Q. I don't -- I don't follow you. What do  
9 you mean?

10 A. We did the first installation of the ATM  
11 and the surround and then we had to move it  
12 slightly to make the room for the -- LaSalle Glass  
13 to get his stainless steel in.

14 Q. Okay. And when did that take place?

15 A. Like June of '06.

16 Q. Okay. And LaSalle Glass, it looks like  
17 they cancelled two dates to relocate it and did  
18 they bill you for it, or did they bill the bank  
19 direct?

20 A. They billed the bank direct.

21 Q. Okay. So we should be able to find  
22 LaSalle Glass' invoices to the bank for the -- the  
23 move of the ATM to its final location. Right?

24 A. They never -- The -- The invoice to move

1 it, LaSalle Glass had nothing to do with it. That  
2 work was part of the original contract.

3 Q. Okay. But when they installed the  
4 stainless steel aspect of the ATM, that's when the  
5 second move took place.

6 A. When they finally got it right. Yes.

7 Q. What do you mean got it right? What did  
8 they do the first time?

9 A. There was some delay with getting the  
10 right size of the stainless steel structure.

11 Q. And by stainless steel structure, do you  
12 mean the --

13 A. The backing. The substrate.

14 Q. Well, let's look at invoice 06-284.

15 When was this work done?

16 A. This was done probably June --

17 Q. June --

18 A. -- of '06.

19 Q. 2006. When was it started?

20 A. October of '05.

21 Q. I don't understand. You mean you had  
22 LaSalle Glass out there from October of 2005 to  
23 June of 2006?

24 A. Yes.

1 Q. They were standing out there every day  
2 between October of 2005 to June of 2006?

3 A. Is this one of your stupid questions?

4 Q. No. I'm trying to figure out what you  
5 mean by them having started it in October of 2005  
6 to June of 2006.

7 A. I think I made it clear that he was a  
8 subcontractor.

9 Q. Mm-hmm.

10 A. And there was all specialty materials  
11 that needed to be measured precisely, ordered,  
12 large lead time.

13 Q. Okay. So describe the process as to how  
14 it happened starting in October of 2005.

15 A. He -- LaSalle Glass brought some field  
16 drawings. The bank and I signed off on them, such  
17 as the revolving door, the store front glasswork,  
18 and then he -- LaSalle Glass then ordered out the  
19 -- the post and the stainless steel materials, and  
20 there's sometimes a lead time of four months for  
21 the revolving door.

22 Q. Okay. I'm more concerned with what  
23 their job was with regard to the ATM and the  
24 surround on the ATM.

1 A. Regarding the surround on the ATM, they  
2 had to do it with a substrate that the actual  
3 fiberglass surround butts up to.

4 Q. Uh-huh. And when did they do  
5 measurements for that?

6 A. Probably like February of 2006.

7 Q. Okay. And when were those aspects of  
8 their work on the ATM done, complete?

9 A. I would say June of 2006.

10 Q. And did they invoice you or the bank  
11 directly for their work?

12 A. I would make that clear that the invoice  
13 came through me, even though the bank signed with  
14 LaSalle Glass directly, but as project manager, I  
15 managed the invoicing.

16 Q. Okay. So --

17 A. But the bank -- the bank signed directly  
18 with LaSalle Glass, but I, as a courtesy to  
19 coordinate, it all went through me.

20 Q. Okay. Was their invoice directed to you  
21 or was it directed to the bank?

22 A. It was directed to me.

23 Q. Okay. And where is that invoice?

24 A. I cannot locate it.

1 Q. Okay. And did you pay them promptly?

2 A. Yes.

3 Q. How did you pay them?

4 A. The bank may have paid them directly.

5 Q. Do you know if the bank paid them  
6 directly or if -- or if you paid them?

7 A. To the best of my recollection -- best  
8 of my recollection, they may have been paid  
9 directly from the bank.

10 Q. What is this reworked intrusion  
11 detection network wires? What is that?

12 A. That is the security wires for someone  
13 trying to -- Are you specifically talking around  
14 the ATM?

15 Q. I'm reading your invoice. You want to  
16 look at your invoice and tell me what it  
17 references, reworked intrusion detection network  
18 wires?

19 A. Around the ATM there's several different  
20 types of security and to move the ATM out like I  
21 made it clear to give access for LaSalle Glass to  
22 pop in their panel, there was some wiring that had  
23 to be moved, and that wiring is part of the  
24 intrusion detection system.

1 Q. Okay. What other security devices exist  
2 for that ATM?

3 A. I'm -- I try to keep as vague and  
4 limited as possible, so I don't know much of the  
5 working of the bank. So what I know is that  
6 there's some, you know, intrusion detection, some  
7 vibrations that I know because we had to maneuver  
8 them a little bit, but other than that, I want to  
9 know as least as possible.

10 Q. Yeah, well you just mentioned a couple  
11 of questions ago that there were other security  
12 devices around the ATM. What were you  
13 referencing?

14 A. The vibration.

15 Q. And what else?

16 A. There was several vibration, and there  
17 was a main security line that runs to the ATM.

18 Q. Yeah. Is there a camera on the ATM?

19 A. I would -- I recall seeing a camera.

20 Q. Yeah. Where is invoice 06240?

21 A. 06420?

22 Q. 06 dash 240.

23 A. I do not know.

24 Q. Well, on invoice --

1 A. 06 -- There may not be one. All my  
2 invoicing does not go in numerical order.

3 Q. Okay. Well, your invoice 07-112 says  
4 installation of ATM sign with LED lighting not  
5 included with invoice number 06-240. So I'm  
6 asking where is invoice 06-240?

7 A. It may have got lost in cyberspace. I  
8 don't -- I don't know.

9 Q. What do you mean by cyberspace?

10 A. Well, I remember we had a issue on our  
11 computer, a virus.

12 Q. Yeah. When did that happen?

13 A. Probably late 2007.

14 Q. Mm-hmm. And what did that virus do?

15 A. We lost a lot of -- a lot of saved  
16 files.

17 Q. Mm-hmm. How are these invoices saved?  
18 What computer program do you use?

19 A. I think we just got basic Microsoft  
20 Office.

21 Q. These -- These invoices are generated  
22 off of Microsoft Office?

23 A. That's the best of my knowledge. Yes.

24 Q. What version?



1 A. I do not know.

2 Q. And are you still using the same  
3 computer, the one that had the virus?

4 A. No.

5 Q. Where's that computer?

6 A. I don't have a clue. We destroyed it.

7 Q. You destroyed it. Okay. So where were  
8 these invoices kept?

9 MR. BELONGIA: Objection to these  
10 invoices.

11 BY MR. RAPHAEL:

12 Q. The ones we're referring to in Exhibit  
13 B.

14 A. They were stored on the main frame.

15 Q. What -- Where's the main frame?

16 A. It's a PC computer, which there's no  
17 actual main frame, but it's right in the PC.

18 Q. What PC computer is it that you're  
19 referring to?

20 A. It's no longer in existence.

21 Q. Okay. So where were these invoices, the  
22 ones you produced to me this morning kept?

23 A. In a file where some of it was able to  
24 retrieve.

1 Q. What do you mean in a file? In a file  
2 where?

3 A. For the Diamond Bank. There was a  
4 folder where these were able to come up.

5 Q. You mean a physical folder or --

6 A. No.

7 Q. -- a computer folder?

8 A. Electronic.

9 Q. Okay. On what kind of computer?

10 A. It's a laptop. I don't recall.

11 Q. And where's that laptop?

12 A. In my residence.

13 Q. Okay. So you transferred all of the  
14 data that you had on Diamond Bank to that laptop?

15 A. The best that we could.

16 Q. When did you do that?

17 A. Probably some time in the end of '07.

18 Q. Okay. And you still have this laptop?

19 A. Yes.

20 Q. Okay. And you have the electronic  
21 records that are kept on that laptop?

22 A. Whatever was able to be saved.

23 Q. When were these invoices created?

24 A. When they were -- Probably December 26,

1 2006.

2 Q. Okay. So these invoices were sent to  
3 the bank around December of 2006?

4 A. Yes. Well, I'll clarify. Invoice  
5 07-112, December 2006, roughly. December 2006  
6 there's a couple -- another invoice. So there's  
7 several invoices here.

8 Q. Yeah. How were they sent?

9 A. That -- By messenger or by me  
10 personally.

11 Q. Okay. So Diamond Bank would have a copy  
12 of these things, theoretically then, if you gave  
13 them to them.

14 A. If they were paid.

15 Q. What do you mean if they were paid?

16 A. Assume that if there's an invoice where  
17 Mr. Hubbard didn't okay for payment, I don't see  
18 why they would have a copy of it.

19 Q. When did you actually print out these  
20 invoices that are Exhibit B, this morning?

21 A. Yesterday.

22 Q. Yesterday. What about invoice 06-290?  
23 Take a look at that. When was that work  
24 completed?

1 A. Probably around June of 2006.

2 Q. Could it have been completed after that?

3 A. It may have.

4 Q. Well, what makes you think it was  
5 completed in June of 2006?

6 A. Like July -- I just recall something  
7 about July that pretty much everything was  
8 buttoned up -- the punch list.

9 Q. What was the punch list?

10 A. All the little, you know, scratch  
11 here -- All the little, you know, things that, you  
12 know, weather proofing to make sure everything was  
13 weather tight.

14 Q. Who gave you the punch list?

15 A. Mr. Hubbard.

16 Q. Okay. Did he have a copy of a punch  
17 list, too?

18 A. No. It was basically walk through and I  
19 -- I probably have a little more knowledge than he  
20 has, so I caught a lot of little things that may  
21 have been, you know, issues.

22 Q. Alright. Well, take me through the  
23 steps that were taken in moving the ATM from the  
24 inside lobby where you started in, I guess,

1 October of 2005 through to when it was complete,  
2 and you say complete some time in July of 2006.

3 A. Well, we started out with pouring some  
4 concrete --

5 Q. Okay. So you poured concrete.

6 A. -- to do a pad. The same pad that we  
7 were going to pour inside the lobby. We just  
8 poured it on the exterior. Once that cured, we  
9 then put up a plywood framing.

10 Q. When did this pouring of the concrete  
11 take place?

12 A. Probably September of '05.

13 Q. Okay.

14 A. Approximately.

15 Q. Okay. And the building of this plywood  
16 framing, when did that take place?

17 A. Probably end of September, you know,  
18 approximate.

19 Q. Okay. What happened next?

20 A. Once the frame -- the plywood structure  
21 and framing was up, then LaSalle Glass measured  
22 for their final stainless?

23 Q. When did that take place?

24 A. Probably like October '06 -- of '05.

1 Clarify '05.

2 Q. And then what happened next after  
3 LaSalle took their measurement?

4 A. Then there was a new machine that showed  
5 up.

6 Q. When did that take place?

7 A. I'm just -- You know, roughly around  
8 October of '05.

9 Q. Mm-hmm.

10 A. And then we had to cut in the machine  
11 into the temporary. The structure without the  
12 stainless, with the plywood surroundings.

13 Q. When did that take place?

14 A. Some time, you know, October, November  
15 of '05.

16 Q. Alright. And so you cut in the new  
17 machine into the plywood temporary surround.

18 A. Correct.

19 Q. And then what happened?

20 A. Then the fiberglass surround showed up.

21 Q. When was that?

22 A. January, February of '06.

23 Q. Was the machine active at this point  
24 yet?

1 A. Yes.

2 Q. When did the machine first become  
3 active?

4 A. Probably like October of '05.

5 Q. You mean before the fiberglass surround  
6 was put up you had the machine active?

7 A. No.

8 Q. Okay. So the machine was not yet active  
9 as of the time the surround --

10 A. Right.

11 Q. -- the fiberglass surround was put in.  
12 Correct?

13 A. The best -- the best that I recall.

14 Q. Okay. What happened after installing  
15 the fiberglass surround? Did you make the machine  
16 active at that point or was there something else  
17 that happened?

18 A. No. We made -- We made it after.

19 Q. Okay. You activated it in January or  
20 February of 2006?

21 A. Yes.

22 Q. So --

23 A. Approximately.

24 Q. Well, could it have been later?

1 A. It could've been earlier.

2 Q. Before you had finished with the  
3 fiberglass surround?

4 A. I don't recall.

5 Q. Well, tell me the process of installing  
6 the fiberglass surround. What did you do for  
7 that?

8 A. We have to get the measurements of the  
9 post to get the centers of the stainless steel  
10 post so that, appearance-wise the surround, with a  
11 nice reveal of the stainless steel, so it looks  
12 like one body, one big huge piece of machinery.  
13 So it was a lot of precise measuring to get that  
14 fitted in accurately so the height-wise was  
15 correct and to meet ADA require -- you know,  
16 requirements.

17 Q. Okay. After the fiberglass surround was  
18 cut in and installed. What happened then?

19 A. Prior to that, we had to raise the  
20 machine up to balance it so the height from the  
21 finished floor to the height of the buttons all  
22 met ADA requirements.

23 Q. And when was that?

24 A. That was all about the same time.



1 Q. And what time is that?

2 A. I don't recall. Early 2006.

3 Q. Was it after February or before  
4 February?

5 MR. BELONGIA: Objection. Form.

6 BY MR. RAPHAEL:

7 Q. Was it after February of 2006 or before?

8 A. It had a lot to do with the weather. So  
9 I would have to say after February 2006.

10 Q. So this process of finishing the  
11 fiberglass surround and raising the machine up so  
12 that it met ADA requirements would've taken place  
13 some time in March of 2006?

14 MR. BELONGIA: Objection.

15 Mischaracterizes prior testimony.

16 THE WITNESS: It may have been before.

17 BY MR. RAPHAEL:

18 Q. So in the middle of January or February.

19 A. It may have been the middle to late  
20 February.

21 Q. Okay. And after having made it ADA  
22 compliant and done the fiberglass surround, what  
23 happened next?

24 A. We lit up the -- There's a -- Part of

1 the ATM surround is a light that says Diamond  
2 Bank. We powered up the light.

3 Q. That light that you're referencing --

4 A. It's right -- It's right there.

5 Q. Okay. For the record, the witness is  
6 pointing to that light in the picture, and just  
7 let me confirm that light right there.

8 A. That light.

9 Q. Yes. Okay. So that display light with  
10 Diamond Bank and Diamond Bank's logo on it was put  
11 up some time in what time period, March of 2006?

12 A. Yes.

13 Q. Could it have been April?

14 A. No.

15 Q. Who supplied the light?

16 A. The -- I don't recall the supplier.

17 Q. Okay. Was the machine made active at  
18 this point or before this point?

19 A. It was active at that point.

20 Q. So the machine itself was working prior  
21 to the Diamond Bank surround light, display light  
22 being lit up?

23 A. No.

24 Q. You did it at the same time.

1 A. They -- We ran the power to the machine  
2 and then it was all activated to make it safe for  
3 everyone to use it.

4 Q. So prior to installing and powering up  
5 the Diamond Bank display light, the machine was  
6 not yet active --

7 A. To the best of my --

8 Q. -- because it wasn't safe to use.

9 A. To the best of my knowledge. Yes.

10 Q. Okay. So it wasn't until after you had  
11 installed all of the surround lights to make it  
12 safe for people to use at night that you activated  
13 the power to the machine.

14 A. Yes, best -- the best that I recall.

15 Q. And this would've been in March of 2006?

16 A. Yes.

17 Q. Could it have been later, say, April?

18 A. No.

19 Q. Okay. And I'm sorry, I probably asked  
20 this, but I forgot. Who supplied the Diamond Bank  
21 sign?

22 A. I don't recall the supplier. The sign  
23 is part of the surround. You just pointed to this  
24 sign.